



Livestock Facility Siting Newsletter Release

This information may be reprinted in part or in full

*In order to track and evaluate our information and education efforts,
we would appreciate notice if you include this information in your publication*

Release Date: November 1, 2006

**Contact: Michael Murray, 608-224-4613
Michael.Murray@datcp.state.wi.us**

Deciding when an application is complete under the Livestock Facility Siting Law

Supporters of the Livestock Facility Siting Law, including the Wisconsin Counties and Towns Associations, want a predictable procedure to ensure timely local permit decisions based on state standards that protect air and water quality. The desired predictability cannot be provided if local governments do not understand and follow the first step in the siting procedures; namely, the local determination that an application is complete.

Within 45 days after the application is received, the siting law (s. 93.90, Stats.) requires that a local government notify a livestock operator whether the operator's application for a proposed facility is complete. If the application is not complete, the local government must notify the applicant of its determination and explain what additional information is needed.

To meet the timeframe requirement, local governments must know what is required to have complete application. This analysis begins with the five-page cover sheet to the application for local approval. Each line must be completely filled out, and the application must be signed and dated. In addition the following attachments are required by ATCP 51:

1. The *area map* with the appropriate items identified and labeled
2. The *site map* with the appropriate items identified and labeled
3. An *Employee Training Plan* that covers required plan elements
4. An *Environmental Incident Response Plan* that covers required plan elements.

The application must be accompanied by the required fee (not to exceed \$1000). An application is not complete if the applicant does not file the number of copies (not to exceed 4) required under the ordinance. An applicant cannot be required to submit multiple copies of engineering design specifications.

The application includes all five worksheets, completed and signed, as required by the rule:

1. Worksheet 1 – Animal Units
2. Worksheet 2 – Odor Management



Livestock Facility Siting Newsletter Release

3. Worksheet 3 (Parts A, B & C) – Waste and Nutrient Management
4. Worksheet 4 – Waste Storage Facilities
5. Worksheet 5 – Runoff Management.

If the applicant intends to rely on the facility's WPDES permit in place of worksheets 3, 4 and 5, the applicant must sign the application and submit the WPDES permit with the application. When a WPDES permit is not included, Worksheet 3, Part C must be signed by a third party nutrient management planner, and Worksheets 4 and 5 must be signed by a registered professional engineer. To the extent that attachments are required (e.g. a closure plan for an idle manure storage structure), the application must include these.

The local government may require that the applicant provide additional information needed to determine compliance with more stringent standards properly adopted in its ordinance. The local government's application should be modified to the additional information.

As part of a completeness determination, a local government may consider whether the application materials are credible. To answer this question, the local government should look at the application as a whole and ask if the proposal is believable. Is there any glaring reason to believe that the applicant will not have and follow nutrient management plan, safely store manure, and control runoff as required by the rule? Local officials should consider the fact that consultants have signed worksheets 3, 4 and 5, and by doing so are putting their professional standing behind the assertions in those worksheets.

The local governments may consider whether the application is internally consistent, in the sense that one can make sense of how the operation is designed and will be operated. Not every detail of the application needs to be addressed at this early stage. If there are minor discrepancies, these do not reach the level of inconsistency that requires additional information at this initial stage.

It is important to remember that a completeness determination is only the first step in the process, and does not mean that a local government must grant the permit without further consideration of the evidence. After a completeness determination, the permitting process allows a local government to request additional documentation to clarify certain aspects of the application or gain necessary assurances that the application meets the siting standards. For example, a local government is specifically authorized to ask a nutrient management planner to submit the documentation that the planner relied upon to substantiate the planner's answer to one or more questions on the nutrient management checklist.

Local governments need to recognize their proper role in the permitting process, and faithfully discharge their responsibility to determine that an application is complete. In this case, delaying a completeness determination is not fair to the applicant and undermines the principle of certainty that underlies the siting law.